

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

CHRISTOPHER CHARLES CLARK,	)	Case No.: 1:21-cv-1386 JLT EPG (PC)
	)	
Plaintiff,	)	ORDER ADOPTING FINDINGS AND
	)	RECOMMENDATIONS, DISMISSING THE
v.	)	ACTION WITHOUT PREJUDICE, AND
	)	DIRECTING THE CLERK OF COURT TO CLOSE
FIDEL GUTIERREZ, et al.,	)	THE CASE
	)	
Defendants.	)	(Doc. 49)
	)	
	)	

This action is proceeding on claims arising under the Eighth Amendment against Defendants Garza, Carolina, Espitia, Aguilar, Oehlert, Nitescu, Jane Doe (a TTA), and Rizk for deliberate indifference to his serious medical needs; arising under California Gov't Code Section 845.6 against Defendants Garza, Carolina, Espitia, Aguilar, Oehlert, and Nitescu; negligence against Defendants Shirley, White, Cronjager, Thomas, Gutierrez, Doe 1 (a contractor supervisor), and Doe 2 (a contractor); and medical negligence claims against Defendants Jane Doe (a TTA) and Rizk. (Docs. 13, 15, 18.)

The Court ordered Plaintiff to file an opposition or a statement of non-opposition to Defendants' motion for summary judgment within 30 days. (Doc. 45.) Plaintiff did respond. Therefore, the magistrate judge found "Plaintiff has stopped prosecuting this case, despite being warned of possible dismissal." (Doc. 49 at 3.) The magistrate judge recommended the action be dismissed, without prejudice, and the pending motion be denied as moot. (*Id.* at 4.)

1 The Court served the Findings and Recommendations on all parties and notified them that any  
2 objections were due within 14 days of the date of service. (Doc. 49 at 4.) The Court also advised that  
3 the “failure to file objections within the specified time may result in the waiver of rights on appeal.”  
4 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014), *Baxter v. Sullivan*, 923 F.2d  
5 1391, 1394 (9th Cir. 1991).) To date, no objections have been filed and the time to do so has passed.  
6 Plaintiff has not taken any action to further prosecute this case.

7 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this case.  
8 Having carefully reviewed the entire file, the Court concludes the Findings and Recommendations are  
9 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 10 1. The Findings and Recommendations dated July 12, 2023 (Doc. 49) are **ADOPTED**.
- 11 2. This case is **DISMISSED** without prejudice.
- 12 3. Defendants’ pending motion for summary judgment is denied as **MOOT**.
- 13 4. The Clerk of Court is directed to close this case.

14  
15 IT IS SO ORDERED.

16 Dated: **August 20, 2023**

  
UNITED STATES DISTRICT JUDGE